

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JIMMIE EARL STEPHENS,

Plaintiff,

v.

M. FELDER, et al.,

Defendants.

No. 2:22-cv-01791-DAD-EFB P

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS, DISMISSING THIS  
ACTION WITH PREJUDICE AND DENYING  
PLAINTIFF'S MOTION TO STAY

(Doc. Nos. 17, 19)

Plaintiff Jimmie Earl Stephens is proceeding *pro se* and *in forma pauperis* in this civil action. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On December 12, 2022, the assigned magistrate judge screened plaintiff's original complaint and dismissed it, while also granting leave to file an amended complaint. (Doc. No. 5.) On March 30, 2023, the magistrate judge screened defendant's first amended complaint and concluded that it lacked allegations of "facts that would show that any defendant knew that plaintiff faced a substantial risk of serious harm if not provided Sildenafil but nevertheless refused to provide it."<sup>1</sup> (Doc. No. 14 at 3.) Nonetheless, plaintiff was granted leave to file a second amended complaint and given specific direction by the magistrate judge as to the facts that

---

<sup>1</sup> Sildenafil is better known by its brand name, Viagra.

1 must be alleged in order to state a cognizable claim for deliberate indifference to a serious  
2 medical need. (*Id.* at 3–4.)

3 On August 18, 2023, the magistrate judge screened plaintiff’s second amended complaint  
4 and issued findings and recommendations recommending that this action be dismissed with  
5 prejudice due to plaintiff’s failure to state a cognizable claim upon which relief may be granted.  
6 (Doc. No. 17.) Specifically, the magistrate judge concluded that plaintiff still had not alleged  
7 facts suggesting that either defendant M. Felder (a medical official at CSP-Solano) or defendant  
8 S. Gates (a health appeals official) knew that denying him a prescription for Viagra would put  
9 him at substantial risk of harm from blood clots or any other reason. (*Id.* at 2–3.) Those pending  
10 findings and recommendations were served on plaintiff and contained notice that any objections  
11 thereto were to be filed within fourteen (14) days after service. (*Id.* at 3.)

12 Plaintiff failed to file any objections to the pending findings and recommendation within  
13 the time provided. Instead, plaintiff elected to file with the court an unauthorized third amended  
14 complaint (“TAC”). (Doc. No. 18.) In that unauthorized TAC, plaintiff names four defendants in  
15 addition to the previously named defendants M. Felder and S. Gates. (*Id.*) The undersigned has  
16 reviewed plaintiff’s TAC and concludes that any new or different allegations set forth therein do  
17 not address the pleading deficiencies noted by the magistrate judge in the prior screening orders  
18 and in the pending findings and recommendations.

19 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a  
20 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the  
21 findings and recommendations are supported by the record and by proper analysis.

22 Finally, on August 30, 2023, plaintiff filed with the court a motion “to stay  
23 recommendations” apparently pending the court’s review of his unauthorized third amended  
24 complaint. (Doc. No. 19.) That motion to stay will be denied as having been rendered moot by  
25 this order.

26 Accordingly,

- 27 1. The findings and recommendations issued on August 18, 2023 (Doc. No. 17) are  
28 adopted in full;

2. This action is dismissed with prejudice due to plaintiff's failure to state a cognizable claim;

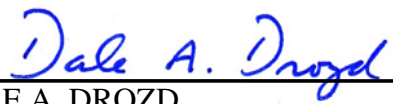
3. Further leave to amend is denied as futile;

4. Plaintiff's motion to stay the findings and recommendations (Doc. No. 19) is denied as having been rendered moot by this order; and

5. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: January 24, 2024

  
\_\_\_\_\_  
DALE A. DROZD  
UNITED STATES DISTRICT JUDGE